

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-1796V

UNPUBLISHED

PATRICIA LARIVIERE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 31, 2023

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Amy A. Senerth, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Voris Edward Johnson, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On September 2, 2021, Patricia Lariviere filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleged that she suffered a shoulder injury related to vaccine administration (“SIRVA”), a defined Table injury, after receiving the influenza vaccine on October 19, 2020. Petition at 1, ¶ 2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 22, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA injury. On May 31, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$60,799.57, representing \$60,000.00 for her pain and suffering and \$799.57 for her past unreimbursed expenses. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$60,799.57, representing \$60,000.00 for her pain and suffering and \$799.57 for her actual unreimbursable expenses in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

PATRICIA LARIVIERE,)	
)	
)	
Petitioner,)	
)	No. 21-1796V (ECF)
v.)	Chief Special Master Corcoran
)	
SECRETARY OF HEALTH)	
AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT'S PROFFER ON AWARD OF DAMAGES

On May 19, 2023, respondent, the Secretary of Health and Human Services, filed his Rule 4(c) Report conceding entitlement to compensation in this matter alleging a Shoulder Injury Related to Vaccine Administration following an influenza vaccination. ECF Doc. 21. On May 22, 2023, the Court entered its Ruling on Entitlement, finding petitioner Patricia Lariviere entitled to Vaccine Act compensation. ECF Doc. 22. Respondent now proffers that petitioner receive a compensation award consisting of a lump sum of **\$60,799.57**, which amount includes \$60,000.00 for pain and suffering and \$799.57 for past unreimbursed expenses, in the form of a check payable to petitioner, Patricia Lariviere.¹ This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.²

Petitioner agrees with the proffered award of \$60,799.57.³

¹ Petitioner is a competent adult. No guardianship is required.

² Should petitioner die prior to entry of judgment, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering, and the parties reserve the right to move the Court for appropriate relief.

³ This proffer does not include any award for attorneys' fees and costs that may be awarded pursuant to 42 U.S.C. § 300aa-15(e).

Respectfully submitted,

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